

Minutes
Air Pollution Control Board
Indiana Government Center South
Conference Room A
402 West Washington Street
Indianapolis, Indiana

October 19, 2006
1:03 p.m.

1. Dr. James Miner, Chairman, called the meeting to order.
He noted that a quorum was present.

**CALL TO ORDER
QUORUM**

2. Chairman Miner introduced the board members.

**INTRODUCTION OF
MEMBERS**

Present: Dr. James Miner, Chairman
Mr. Kurt Anderson
Mr. Thomas Anderson
Mr. John Bacone, Proxy, Department of Natural Resources
Mr. David Benshoof
Mr. Howard Cundiff, Proxy, State Board of Health
Mr. Chad Frahm, Proxy, Lt. Governor
Mr. Marlow Harmon
Mr. Chris Horn
Dr. Phil Stevens

Also present were Mr. Thomas Easterly, Commissioner and Ms. Kathy Watson, Air Programs Branch Chief. Others present are recorded on a separate sheet and made a part of this record. A court reporter was present and a transcript is available for review.

3. Ms. Watson reported on the agency's third-quarter metrics which shows the agency's progress with respect to goals that have been set. Ms. Watson reported that Central

REPORTS

Indiana is in compliance with the eight-hour ozone standard which makes the entire state compliant with the ozone standard as of the end of the 2006 year. Ms. Watson reported that IDEM received a grant from U.S. EPA to do an air toxics study in southwest Indianapolis.

Ms. Nisha Sizemore, Permits Branch Chief, gave the annual permit report. She stated that there were three different rules that require IDEM to report on permitting activities,

and that this report consolidates all three into one report and covers the fiscal year ending

June 2006. The report covers ongoing activities. She stated that a description of the permitting programs and brief history of each is included within the handouts. She also noted that there would need to be a fee increase to cover the cost of running the permit program and that IDEM would request a 25% fee increase for all fees, which is about 2.5 million dollars annually.

Ms. Watson gave an update on current and pending rulemakings.

4. Chairman Miner introduced the June 7, 2006, Air Pollution Control Board minutes. **MINUTES**

Mr. Benshoof moved to adopt the June 7, 2006 Air Pollution Control Board's minutes. Mr. T. Anderson seconded. The motion passed unanimously.

5. Chairman Miner introduced Exhibit 2, the draft rule, into the recording of the hearing. **PUBLIC HEARING
FOR PRELIMINARY
ADOPTION OF RULE
326 IAC 25.**

Mr. Dan Murray, Assistant Commissioner, OPPTA, reported on changes and revisions to the program since his last presentation to the board. Mr. Murray stated that the agency's web site would clearly define opportunities for the public to participate in the rulemaking process. The Environmental Stewardship Program (ESP) will list all applicants prior to membership determinations so that the public may comment on those entities that wish to participate in the program. He also stated that if there are any revocations of membership, those will also be posted on the web site for public review. This was not previously contained in the rule. Mr. Murray stated that the criteria had been changed and added additional clarification relative to the annual reports that will be due of all program members. This information will be available to the public via the web site. Additionally, two definitions have been slightly changed. The definition of "senior management" has been changed for entities to mean an individual or individuals with executive responsibility for the entity from the person or group with executive responsibility for the entity that was in the second notice draft rule. The definition of "environmental management system (EMS)" has been changed to apply to an entity. The term "entity" is broader than a facility and could include more than one EMS for different relationships or divisions or organizations. Mr. Murray stated that these changes took place between second notice and preliminary adoption of the rule.

**Environmental
Stewardship Program**

LSA #05-232

Ms. Janet McCabe, Improving Kids' Environment, voiced support for the concept of the Environmental Stewardship Program and appreciation to IDEM for the open rulemaking process. She said that she had commented on the draft rule language. She provided additional comment on the resources that would be needed to run the program and on the

annual report that each company needs to submit. She recommended that the agency issue an annual report that summarizes the success of the program and that entities in the program provide a summary of their compliance history in their annual summary. She expressed concern about incentives related to inspections and in particular pre-announced inspections, about the 10-year permit renewal term and about monthly VOC monitoring as it applies to the air program.

Mr. K. Anderson moved to preliminarily adopt rule 326 IAC 25. Mr. Harmon seconded. The motion carried unanimously.

6. Chairman Miner introduced Exhibit 2-A, the proposed rule as preliminarily adopted with IDEM's suggested changes, and Exhibit 2-B, the proposed rule as preliminarily adopted, into the record of the hearing.

**PUBLIC HEARING
FOR FINAL
ADOPTION OF
AMENDMENTS TO
RULE 326 IAC 7-4-2.**

Ms. Susan Bem, Rulewriter, stated that there were a few changes to the rule language since preliminary adoption of the rulemaking. U.S. EPA asked that IDEM add the 20 grain per hundred cubic feet permit limit to the rule for battery 1 and that all gas is to be desulfurized. Ms. Bem stated that this language had been added to the rule. U.S. EPA had also asked that IDEM add language to clarify that all sulfur compounds, which are hydrogen sulfide and the trace organic sulfur compounds, be used to calculate the SO₂ emissions, and also add record keeping provisions. Ms. Bem stated that these provisions had been added to the rule.

**Citizens Gas and Coke
SO₂ Emission
Limitations.**

LSA #05-118

Dr. Stevens moved to final adopt amendments to rule 326 IAC 7-4-2. Mr. Cundiff seconded. The motion carried unanimously.

Mr. T. Anderson moved to final adopt rule 326 IAC 7-4-2. Mr. Frahm seconded. The motion passed unanimously 10-0.

7. Chairman Miner introduced Exhibit 3, the proposed rule as preliminarily adopted, into the record of the hearing.

**PUBLIC HEARING
FOR FINAL
ADOPTION OF
AMENDMENTS TO
RULE 326 IAC 4-1-3.**

Ms. Watson stated that this rule had no changes since preliminary adoption. This rule allows clean-burning fuels to be used for fire extinguisher training, thereby eliminating the need for case-by-case variances for those clean-burning fuels; it also harmonizes the rule with some statutory changes and Natural Resources Commission rules that are in effect. Ms. Watson asked the Board to final adopt the rule.

**Open Burning for
Specified Purposes.**

LSA #05-268

Mr. Cundiff moved to final adopt amendments to rule 326 IAC 4-1-3. Mr. Frahm seconded. The motion passed 10-0.

8. Commissioner Easterly gave a presentation regarding the Indiana Mercury Rule. He stated that there are two major choices in this rulemaking. The Hoosier Environmental Council (HEC) submitted a petition requesting a 90% reduction in uncontrolled mercury emissions for all coal fired power plants or an alternative standard of 0.6 pounds of mercury per trillion BTU. The other option would be to adopt the federal Clean Air Mercury Rule that caps emissions in two phases and allows trading. He stated that there was not a consensus on where to go with the rule and that Indiana would not be able to meet EPA's November 2006 deadline to have a rule in place. He reviewed available information regarding mercury, and addressed the following topics: why it is important to control mercury, determining exposure to mercury, the fate of mercury emitted by power plants, the portion of the total emitted mercury that is due to emissions by sources in Indiana, the uncertainties associated with information about the health effects of mercury and the costs of controlling mercury, the status of technologies to control mercury emissions, and cost estimates to control mercury emissions provided by HEC and the State Utility Forecast Group. Based on uncertainties over the achievability of control, the reductions in actual mercury exposure level based on reductions in emissions, and the probability that the cost of control beyond the Clean Air Mercury Rule would exceed the benefits, the Commissioner recommended that Indiana adopt the federal rule.

**REPORT ON
INDIANA MERCURY
RULE**

Board discussion followed. Dr. Stevens said that he hoped that there would be some discussion of policy options, including 90% emissions reductions plus trading and changes in deadlines. He said that he would like to see the Board direct a workgroup to develop a compromise rule that was something other than strictly CAMR or strictly the HEC petition.

Mr. Tom Anderson supported Dr. Steven's request and said that his preference is to err on the side of protecting human health and not under-protecting especially sensitive populations.

Mr. Kurt Anderson asked if fish consumption was the only way to ingest mercury. The Commissioner responded that it is the only way people are routinely exposed to mercury.

Mr. Chad Frahm asked the Commissioner the percentage decrease in mercury emissions due to CAMR versus the decrease sought by HEC. Ms. Watson explained that because CAMR is a phased approach, that meeting the Clean Air Interstate Rule reductions essentially ensures that CAMR phase I reductions are met.

Mr. Tom Anderson asked what the sanctions would be if the federal deadline to implement CAMR were not met. The Commissioner replied that a federal

implementation plan would be implemented.

Mr. Benshoof asked if the board were to move ahead with CAMR as the baseline rule, if the rule could then be added to at a later date.

Dr. Stevens asked if there is time to come up with a compromise rule. Ms. Watson explained the rulemaking process and said that the state has most of 2007 to promulgate a rule.

Dr. Miner expressed support for developing a compromise rule.

Chairman Miner then took comments from the audience. Mr. Brian Wright, Coal Policy Director for the Hoosier Environmental Council, expressed concerns about the cap and trade system and mercury hot spots.

Mr. Stan Pinegar, Indiana Energy Association (IEA) on behalf of the IEA and three non-IEA-member generating companies, expressed support for the federal CAMR rule.

Mr. Chuck Brinkman, Indiana Wildlife Association, voiced opposition of the federal CAMR rule and requested a stronger regulatory mercury rule such as the HEC rule or a compromise rule that might appear.

Ms. Janet McCabe, Improving Kids Environment, encouraged the board to use the work group process to develop a rule that might not be a consensus rule but that is a good rule. She said that the rule that will be brought to the Board may be Indiana's one opportunity to do a good rule.

Mr. Vince Griffith, Vice-President of Environmental Energy Policy for the Indiana Chamber of Commerce, stated that the Chamber supports adoption of the federal mercury rule.

Dr. Indra Frank, physician and board member of the Hoosier Environmental Council, seconded the comment that the work group has not yet been a forum in which there was a discussion of options regarding mercury control or an opportunity to develop a compromise rule. She requested an opportunity to develop options for compromise. She requested that the board consider the question of whether society values a cost saving over the protection of public health.

Mr. Jerry King, Executive Director of the Indiana Public Health Association, urged the board to adopt a higher standard for Indiana than CAMR.

Ms. Cary Hamilton, President of the Hoosier Environmental Council's Central Indiana Board, said that earlier EPA scientists had proposed a rule that was very similar to, if not identical to, the HEC proposal, but that at some point in the last two years it was changed dramatically to the resulting Clean Air Mercury Rule.

9. Chairman Miner announced that the next meeting was tentatively scheduled for November 1, 2006.

NEXT MEETING

10. Mr. K. Anderson moved to adjourn the meeting. Mr. Benshoof seconded. The vote was unanimous. Chairman Miner adjourned the meeting at 4:03 p.m.

ADJOURNMENT

James Miner, Chairman

These minutes were taken from the October 19, 2006, transcript, and were written on January 8, 2006, by Karol T. Chuma, Office of Air Quality.